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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,081	04/02/2001	L. Scott Rich	RSW9-2001-0074-US1	1696
7590 Mark D. Simpson Synnestvedt & Lechner 2600 Aramark Tower 1101 Market Street Philadelphia, PA 19107-2950			EXAMINER RUTTEN, JAMES D	
			ART UNIT 2192	PAPER NUMBER
			MAIL DATE 12/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/825,081

Applicant(s)

RICH ET AL.

Examiner

J. Derek Rutten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to Applicants' submission filed 12/10/07, responding to the 9/10/07 Office action which detailed the rejection of claims 3-5. Claims 3-5 have been amended. Claims 3-5 remain pending in the application and have been fully considered by the examiner.

Response to Arguments/Amendments

2. On pages 6-7, filed 12/10/07, Applicants essentially argue that the prior art of record, in particular Kronenberg, "provides no feature that allows a user to specify which file format contents will be saved ... and loaded according to a loading strategy created based upon the specified format." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a loading strategy created based upon the specified format") are not recited in the rejected claims (The claims recite "**said** loading strategies....," e.g. see line 13 of claim 1). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

However, even if the limitations were claimed, Applicants' argument is not persuasive. It is noted that Kronenberg is not relied upon to disclose specification of file formats. Kronenberg discloses creating a loading strategy based on a determination of file formats (see Kronenberg column 2 lines 45-49 and 55-57 as cited in the rejection below). Francis teaches that file formats can be specified by said user (see column 21 lines 31-46 as cited in the rejection below). Kronenberg is able to create a loading strategy based on a file format, regardless of how the

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format was specified. Once a file format has been specified, as taught by Francis, Kronenberg would be able to create a loading strategy. Therefore, Applicants' argument is not persuasive.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 3 recites the limitation "said loading strategies created based upon said specified format" in lines 13 and 14. There is insufficient antecedent basis for this limitation in the claim. Lines 7-8 of the claim introduce "creating a loading strategy based on said determination" where the "determination" is introduced at lines 5-6 which recite "determining if the files listed in the requested file set are in an archive format or a directory tree format." As such, "said loading strategies created" are based on the determination, not on the specified format. For the purpose of further examination, the limitation "said loading strategies created based upon said specified format" will be interpreted as --a loading strategy created based upon said specified format--.

Claims 4 and 5 contain similar issues and will be interpreted accordingly.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over prior art of record US Patent No. 5,907,703 to Kronenberg et al. (hereinafter "Kronenberg") in view of prior art of record US Patent No. 5,241,670 to Eastridge et al. (hereinafter "Eastridge"), further in view of US Patent No. 6,182,092 to Francis et al. (hereinafter "Francis").

In regard to claim 3, Kronenberg discloses:

A method for returning files to a client of an enterprise application (column 7 line 34 – column 8 line 25), comprising the steps of:

requesting the loading of a file set comprising a list of one or more files each stored under a predetermined path and filename in said list; See column 2 lines 33-40:

Turning next to FIGS. 3, 4, and 5 a preferred embodiment of a device driver program embodying the present invention begins by receiving a file system request from the operating system at step 301. The file system request contains information indicating the type of request to be performed, the identity of the file on which the operation is to be performed, and any other information needed to perform a successful operation.

determining if the files listed in the requested file set are in an archive format, or a directory tree format; See column 2 lines 45-49:

At step 302, the driver determines if the file system request is a request to enumerate the contents of a folder. If the answer at step 302 is affirmative, then at step 303, the driver checks to see if the enumeration points to an archive file.

creating a loading strategy based on said determination, wherein said loading strategy is created based upon the format of the files; See column 2 lines 55-57:

If the answer to step 303 is affirmative, then at step 304 the device driver creates, in RAM a virtual folder that represents the archive file.

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creating a virtual archive using the loading strategy, the virtual archive comprising a stored list of proxies enabling the files identified in the requested file set to be located; See column 2 lines 55-57:

If the answer to step 303 is affirmative, then at step 304 the device driver creates, in RAM a virtual folder that represents the archive file.

Also see column 3 lines 4-8:

If the answer to step 305 is affirmative, then the contents of the virtual folder are revealed at step 306. By "revealing", it is meant that the contents are made available to the operating system. These contents are contents of the archive that the virtual folder represents.

upon the execution of a save function, performing a deferred copying process on contents of all of said one or more files in said file set, and storing the contents to an archive on disk..., wherein the contents are retrieved by [a] loading [strategy] created based upon said ...format in said virtual archive.

See column 4 lines 50-54:

then at step 509 the driver determines whether the operation is a **write operation**. If the answer is affirmative, then at step 514, the driver determines whether the file has been decompressed. If it has, at step 519 **the driver copies the write data to memory**.
[emphasis added]

Note that the copying process is deferred until a "write" command is received. Further, see column 4 lines 5-7, e.g. "the driver updates the archive central directory and the files affected in the archive."

Kronenberg does not expressly disclose copying *all of said one or more files in said file set*. However, Eastridge teaches that a full backup copies all the files in a file set. E.g. "FULL backup", column 1 lines 45-48. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Eastridge's teaching of

a full backup with Kronenberg's deferred copying in order to present a consistent view of data within the dataset (see Eastridge column 1 lines 52-54).

Kronenberg and Eastridge does not expressly disclose: storing *in a file format specified by said user*, or a loading strategy created based upon a *specified* format.

However, Francis teaches that file formats can be specified by said user. See column 21 lines 31-46, e.g. "Save As." It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Eastridge's teaching of format specifying with Kronenberg's storage and loading strategy in order to provide a consistent set of archive files in a preferred format. Using the known technique of format specifying with archive files to provide a preferred format would have been obvious to one of ordinary skill. Further, the basic technique of creating a loading strategy based on file format as disclosed by Kronenberg is not altered by the specification of a format as taught by Francis. Thus, using the known technique creating a loading strategy based on a file format, regardless of how the format was specified, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use create a loading strategy based on a specified format.

In regard to claim 4, Kronenberg discloses a system (column 7 lines 3-33). All further limitations have been addressed and/or set forth in the above rejection of claim 3.

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8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kronenberg and Eastridge in view of prior art of record US 6286051 B1 to Becker et al. (hereinafter "Becker"), in view of Francis.

In regard to claim 5, Kronenberg does not expressly disclose a computer program product. All further limitations have been addressed and/or set forth in the above rejection of claim 3. However, Becker teaches using a computer program product. See Fig. 4 elements 76 and 78 and column 6 lines 15-56. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Becker's computer program product with Kronenberg's program product in order to load the program for use in a workstation as suggested by Becker (column 4 lines 18-34).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Derek Rutten whose telephone number is (571)272-3703. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Derek Rutten/
Patent Examiner, AU 2192